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FM AMEMBASSY MANILA  
TO RUEHC/SECSTATE WASHDC IMMEDIATE 1282  
INFO RHHMUNA/CDRUSPACOM HONOLULU HI  
RUEKJCS/JOINT STAFF WASHINGTON DC  
RUEKJCS/SECDEF WASHDC//OSD/ISA/AP//

UNCLAS MANILA 002308

SIPDIS

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STATE FOR L/T (RM. 5420,ATTN:DAPHNE COOK)  
STATE ALSO FOR PM/RSAT AND EAP/MTS  
USPACOM ALSO FOR FPA HUSO  
SECDEF/OSD/ISA/AP FOR ALLEN

E.O. 12958: N/A

TAGS: [MASS](#) [MARR](#) [PGOV](#) [KTIA](#) [RP](#)

SUBJECT: MILITARY GRANT ASSISTANCE: LEGAL REQUIREMENTS

REF: 04 STATE 271500

1. (U) Post received the following diplomatic note from the Department of Foreign Affairs (DFA) in response to reftel's proposed amendment to the 1974 Exchange of Notes governing the 505 Agreement between the United States and Republic of the Philippines. While agreeing to the U.S. proposal, the DFA elected not to use reftel's suggested text for its response. The DFA also offered some comments on the change in wording.

2. (U) Text of Diplomatic Note.

BEGIN TEXT.

No. 06-1097

The Department of Foreign Affairs presents its compliments to the Embassy of the United States of America and has the honor to refer to U.S. Note Verbale No. 0282 dated 08 March 2005, proposing amendments to the Exchange of Notes dated 16 May 1974 and 16 July 1974.

The Department has no objection to the proposed amendment and submits the following additional comments on the matter:

1. By replacing the phrase "under the Military Assistance Program of" with "on a grant basis from" in the second paragraph of the Notes dated 16 May and 16 July 1974, this may have the effect of expanding the obligation of the Philippines under the original Exchange of Notes.

Under the original Exchange of Notes, the Philippines' obligation is to share with the U.S. the new proceeds from the sale of defense equipment given under the Military Assistance Program. The proposed amendment suggests that the said obligation will be expanded to include the net proceeds from the sale or disposition of defense equipment furnished to the Philippines pursuant to any form of grant. The Philippine Government would appreciate confirmation from the U.S. Government regarding this matter.

2. Any future exchange of notes, executive agreement, or treaty in relation to payment of net proceeds of sales of defense articles furnished by the U.S. to the Philippines should contain a clearly defined distinction between furnishing of defense articles on grant basis on the one hand and purchase of defense articles on the other, such that payment for the defense articles would not be applicable in the latter instance such as being acquired or purchased through Philippine funds.

The Department of Foreign Affairs avails itself of this opportunity to renew to the Embassy of the United States of America the renewed assurances of its highest consideration.

Pasay City, 02 May 2006  
END TEXT.

13. (U) Per reftel, the original of the DFA note and a certified copy of the Embassy's note have been pouched to L/T RM 5420, Attn: Daphne Cook via registered pouch. The pouch registration number is 4439993.

Visit Embassy Manila's Classified website:  
<http://www.state.sgov.gov/p/eap/manila/index.cfm>  
Kenney